



The Commonwealth of Massachusetts
Executive Office of Health and Human Services
Department of Public Health
250 Washington Street, Boston, MA 02108-4619

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May 28, 2019

VIA ELECTRONIC MAIL

Mr. Liam Knox
MuckRock News
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Somerville, MA 02144-2516
70587-47365674@requests.muckrock.com

Re: Public Record Request (DPH Tracking Number: BEH-2019-60)

Dear Mr. Knox:

This letter is in regard to the above referenced public record request received by the Department of Public Health ("DPH" or the "Department"), Bureau of Environmental Health (BEH) on March 15, 2019. This request has been assigned a tracking number: **BEH-2019-60**. Specifically, you requested:

- A copy of all environmental impact reports related to the seven waste combustion facilities in Massachusetts: Covanta Haverhill, Covanta of SEMASS, Wheelabrator Millbury, Wheelabrator North Andover, and Wheelabrator Saugus. For the offices of the town and city clerks who are also receiving this request, please limit your search to the facility located within your jurisdiction.
- I am also requesting a copy of all emails between department employees and employees of Wheelabrator Technologies from 2000-the present; as well as between department employees and employees of Covanta Energy.
- I am also requesting a copy of all contracts between the state or city and Wheelabrator Technologies, as well as all contracts with Covanta Energy.
- I would also like a copy of all emails from constituents that include the keywords "waste incinerator," "waste combustion," "Wheelabrator," "Covanta" and/or "waste pollution."

On Tuesday, March 26, 2019, you submitted a revised (narrowed) request for:

- A copy of any public health reports related to the following waste combustion facilities: Covanta Haverhill, Covanta of SEMASS, Wheelabrator Millbury, Wheelabrator North Andover, and Wheelabrator Saugus.
- A copy of all emails between the public, local officials, and/or public health/environmental advocacy groups and Jan Sullivan, Suzanne Condon, and Martha Steele sent between 2010 and 2019. Please limit this search to the following keywords: "Wheelabrator," "Covanta," "ash dumping" and "Conservation law Foundation."

On April 5, 2019, in response to the Department's request for clarification, in an email you informed the Department you were only interested in potentially responsive emails relating to waste combustion facilities. On April 19, 2019 and April 22, 2019, the Department unsuccessfully attempted to contact you to discuss certain issues it was encountering with archived emails potentially responsive to your request. Then, on May 7, 2019, my colleague, DPH Deputy General Counsel, John "Jay" Pina III, called you and explained the challenges in complying with your request. Specifically, Attorney Pina informed you that in cases where there is a large amount of electronically stored information (ESI) contained in archived email, the Department may utilize third party vendor services to process, search and/or identify any responsive records within the ESI.

In this case you agreed that contracting with a third party vendor to cull, filter, and apply the search parameters would not be worth the expense the Department would incur due to the voluminous amount of data contained in the archived email files coupled with the small percentage of potentially responsive records identified from the active email accounts. Therefore, as you also agreed, you will accept the eight (8) readily available records in full satisfaction of your public records request, BEH-2019-60.

Thus, enclosed please find the eight (8) records (6 emails and 2 reports), DPH/BEH identified, that may be responsive to your request. The Public Records Law authorizes a state agency to charge a reasonable fee for the production of public records. *See* G.L. c. 66, § 10(d); 950 CMR 32.08(2). However, as you and Attorney Pina agreed, the Department will waive any fees associated with this production. Notwithstanding said fee waiver, the Department reserves the right to retrieve any exempted, privileged, or otherwise protected information inadvertently included in this letter. Any such material is not, and shall not be considered or deemed, a waiver of any applicable privileges or protections from disclosure.

The Department now considers your public record request (BEH-2019-60) closed. If you believe the Department has violated G.L. c. 66, § 10, pursuant to G.L. c. 66, § 10A, if your request was made in writing, you may submit an appeal to the Supervisor of Public Records in the Office of the Secretary of the Commonwealth or seek judicial review by commencing a civil action in Suffolk Superior Court.

Please feel free to contact me with any questions or concerns. In any communication regarding this request, please reference the assigned tracking number: **BEH-2019-60**

Sincerely,

Carolyn Wagner

Carolyn Wagner
Office Manager and Public Records Liaison
(DPH/BEH)

cc: Helen Rush-Lloyd (DPH)
Jim Ballin, Deputy General Counsel (DPH)
Ann Scales, Director of Media Relations (DPH)